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COMMITTEE MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

BUDGET AND ADMINISTRATION COMMITTEE

JOE SERNA, JR., CALEPA BUILDING

1001 I STREET

2ND FLOOR

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

WEDNESDAY, JUNE 11, 2003

1:30 P.M.

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Carl Washington, Chairperson

Jose Medina

Linda Moulton-Patterson

STAFF

Mark Leary, Executive Director

Julie Nauman, Chief Deputy Director

Wendy Breckon

Kristina Gin, Secretary

Jim Lee, Deputy Director

Terry Jordan, Deputy Director

Scott Walker

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1 PROCEEDINGS

2 CHAIRPERSON WASHINGTON: Budget and Admin

3 Committee is called to order.

4 Secretary, call the roll.

5 SECRETARY GIN: Medina?

6 COMMITTEE MEMBER MEDINA: Here.

7 SECRETARY GIN: Moulton-Patterson?

8 COMMITTEE MEMBER MOULTON-PATTERSON: Here.

9 SECRETARY GIN: Washington?

10 CHAIRPERSON WASHINGTON: Here.

11 Quorum is present.

12 Any ex partes?

13 COMMITTEE MEMBER MOULTON-PATTERSON: I have none.

14 CHAIRPERSON WASHINGTON: Mr. Medina?

15 COMMITTEE MEMBER MEDINA: None to report.

16 CHAIRPERSON WASHINGTON: And I'm up to date.

17 All right. We'll begin with our Deputy

18 Director's report.

19 DEPUTY DIRECTOR JORDAN: Good afternoon, Chair

20 and Committee members. I'm Terry Jordan with the

21 Administration and Finance Division. And I'll start with

22 just advising you where we're at on our budget status. A

23 conference has been meeting since last week, and they're

24 continuing to do so. And my understanding is that they've

25 taken up all of our items as of last night. They have

1 been held open, but as of now we're closed in conference.

2 There was an issue that was held open on our
3 five-year plan with regards to the tire incineration. And
4 my understanding is that there is trailer bill language
5 that they put forward last night that will be submitted --
6 it's pending in LEG counsel. This could have an impact on
7 our five-year plan. In addition, they have agreed that
8 they want to use three of our special funds, IWMA, the
9 Integrated Waste Management Account; the RMDZ, the
10 Recycling Market Development Zone funds; and the tire
11 account to do more loans to the general fund. They want
12 to take the reserves and leave us a million in reserve in
13 order to help support the general fund deficit.

14 My understanding, based on language that I have
15 seen, is that they would be paying these back in 2009 with
16 interest. At this point I'm not sure what the interest
17 rate is.

18 In addition, they have been looking at the Board
19 structure, and I don't have specifics on that with me.

20 On another note, it's my understanding that the
21 hiring freeze will continue, that we can expect it to
22 continue. And in fact, a lot of departments -- larger
23 departments are implementing internal hiring freezes. And
24 a lot of that has to do with the required reduction in
25 personnel services. The required reduction plans in

1 personnel services are considered by DPA to be contingency
2 plans. What they're saying is that based on the budget
3 situation, if bargaining is successful, then the reduction
4 plans would not be necessary. However, if bargaining is
5 not successful -- or is successful, then there would not
6 be 5 percent increase pay raises, and therefore the
7 reduction plans would not be necessary.

8 The combined total statewide of individuals
9 affected by the reduction plans is approximately 10,000
10 individuals. And -- let's see. It's my understanding
11 we've gotten word that the Controller intends to pay full
12 salary, even if there is no budget by July 1.

13 And we're getting news every single day of
14 differences and changes.

15 CHAIRPERSON WASHINGTON: In the 10,000, TJ, of
16 employees, how many are employees with the Integrated
17 Waste Board out of that 10,000?

18 DEPUTY DIRECTOR JORDAN: I believe there's around
19 50. Keep in mind that a good portion of the plans include
20 vacancies, whatever vacancies are available in
21 departments.

22 CHAIRPERSON WASHINGTON: How many vacancies do we
23 have in the Integrated Waste Board?

24 DEPUTY DIRECTOR JORDAN: I think right now we
25 have about -- close to 40, I think.

1 CHAIRPERSON WASHINGTON: Actually, we're taking
2 out of 50 to 40 vacancies we will incur that -- and then
3 ten positions we're talking about roughly.

4 DEPUTY DIRECTOR JORDAN: Yes.

5 EXECUTIVE DIRECTOR LEARY: Mr. Chair, if I could
6 chime in a little bit. I think in that sense this
7 organization is very fortunate by comparison to a number
8 of other organizations. But at the same time, a number of
9 those vacancies were going to be new vacancies to the
10 Board in anticipation of some high priority programs, in
11 the tire fund, for example. So we are going to be
12 strapped in terms of resources if we have to fully
13 implement the 10 percent plan without an opportunity to
14 take any mitigated measures.

15 Let me also suggest at this point that the
16 10 percent plan is considered confidential for the time
17 for the purposes of submission to the Department of
18 Finance and the Department of Personnel Administration.
19 As TJ has touched on, it is still a contingency plan. It
20 is not a plan that the administration at this point
21 intends to fully implement unless absolutely necessary.
22 And I think that's part of the reason why it's being held
23 in such confidence at this point.

24 CHAIRPERSON WASHINGTON: Even from the Board
25 members?

1 EXECUTIVE DIRECTOR LEARY: As typically the
2 Board's practice and other board's practices with
3 confidential matters of personnel or significant
4 legislative impact, they're managed largely by the
5 Executive Director through the Chair to the agency and the
6 administration. And much like defining positions on
7 legislature and we've stated that clearly --

8 CHAIRPERSON WASHINGTON: I have never, Mark, sat
9 on a board -- I've talking about Board of Directors or any
10 other board where I haven't been privileged to know what
11 we're talking about in an agency that I'm a Board member
12 of. That just don't make any sense to me. And other
13 members can speak for themselves, but I am livid to find
14 out that we have a plan where I've had employees call my
15 office, calling my cell phone as a Board member of this
16 agency, as Budget Committee Chairman to ask me what is
17 going on. And I can't give them any answers because
18 somebody just arbitrarily decided this will be between the
19 Executive Director, the Chair, and some administration.

20 EXECUTIVE DIRECTOR LEARY: Well, I guess I
21 wouldn't characterize it as arbitrarily. This is specific
22 direction by the administration through the agency so --

23 CHAIRPERSON WASHINGTON: But the administration
24 don't govern all Board members. I'm a legislative
25 appointee.

1 EXECUTIVE DIRECTOR LEARY: That's true.

2 COMMITTEE MEMBER MEDINA: I would have to agree
3 with Board Member Washington in that I have yet to sit on
4 any Board or Commission, whether it be San Francisco
5 Police Commission --

6 CHAIRPERSON WASHINGTON: This is crazy.

7 COMMITTEE MEMBER MEDINA: -- the Board of
8 Supervisors where the Executive Director and the Chair did
9 not share everything, I mean absolutely 100 percent
10 everything with every member of the board. We may have
11 Chair, Vice Chair, but each and every Board member is an
12 equal on the Board and entitled to full information.

13 I just learned of another document that was
14 passed out, and only a couple of the Board members got
15 ahold of that document before it was taken back. Some
16 Board members are privy to the contents of that document.
17 Other Board members are not privy to that document. So I
18 find that a very bad practice to have on a public body.

19 CHAIRPERSON WASHINGTON: And again, I mean, this
20 is an issue of employees who are concerned about their
21 job. And as Board members, we can't offer any
22 suggestions. There's plenty of ways I can come up with --
23 my staff and I just sat for the last two days and thought
24 of a number of ways. I'd rather give up a 5 percent
25 reduction in my pay to see someone lose their job. Is

1 that part of the plan?

2 EXECUTIVE DIRECTOR LEARY: Absolutely. It
3 absolutely is, Mr. Washington.

4 CHAIRPERSON WASHINGTON: But I can't tell people
5 that because I don't know that.

6 EXECUTIVE DIRECTOR LEARY: That's true.

7 CHAIRPERSON WASHINGTON: I can't tell them -- is
8 a mandatory furlough a part of the plan?

9 EXECUTIVE DIRECTOR LEARY: Actually, I told staff
10 that in an all-staff e-mail --

11 CHAIRPERSON WASHINGTON: Well, I got an e-mail
12 where you suggested to staff -- I have the e-mail the says
13 you would call meeting and you decided from TJ that the
14 meeting would be canceled until further information can be
15 given.

16 EXECUTIVE DIRECTOR LEARY: That's right.

17 CHAIRPERSON WASHINGTON: This was back Wednesday,
18 May 14th, and this is June 14th.

19 EXECUTIVE DIRECTOR LEARY: That's right.

20 CHAIRPERSON WASHINGTON: That's a month ago.
21 There's a lot of stuff that's happened in a month because
22 I've been part of some of that stuff.

23 EXECUTIVE DIRECTOR LEARY: Because a lot of
24 things have happened, it would have been premature at that
25 point in time to share information that has since changed

1 as a result of that month being passed. So we have the
2 potential situation where we alarm employees unnecessarily
3 because --

4 CHAIRPERSON WASHINGTON: But you did that anyway.
5 Didn't someone call a meeting with all of our executives,
6 administrative assistants, staff, and folks upstairs to
7 tell them that they can potentially lose their job?

8 DEPUTY DIRECTOR JORDAN: Mr. Washington, we were
9 asked in administration if we would kindly meet with them
10 to discuss what potentially was --

11 CHAIRPERSON WASHINGTON: Why weren't the Board
12 members informed that you were going to have this meeting?

13 DEPUTY DIRECTOR JORDAN: I was asked by a Board
14 member to have the meeting.

15 CHAIRPERSON WASHINGTON: No. I said all Board
16 members. Not one. I said all of us. I wasn't informed
17 that we were having a meeting with staff. I would
18 probably have liked to attend the meeting.

19 EXECUTIVE DIRECTOR LEARY: It was largely done as
20 a result of the fast action of the Conference Committee.
21 There was a lot of anxiety on the 24th floor. We wanted
22 to make an attempt to deal with it. I apologize for not
23 reaching out to all the Board members to inform them. But
24 in the interest of responding to staff --

25 CHAIRPERSON WASHINGTON: I heard that, Mark, when

1 I first came to this Board. Jose was talking about Board
2 members not being informed of stuff. I don't care about
3 going to everything. But there are some things that Board
4 members should know. I think when it comes to these types
5 of issues, Board members should know what's going on with
6 this agency.

7 EXECUTIVE DIRECTOR LEARY: I appreciate that.

8 CHAIRPERSON WASHINGTON: We govern this agency.

9 EXECUTIVE DIRECTOR LEARY: I appreciate that
10 perspective --

11 CHAIRPERSON WASHINGTON: If it's the part of
12 being confidential, you say that to the Board members.
13 You call in closed session and say, "This is what's going
14 on. We want this to remain a part of our confidentiality
15 until we fully develop what's going on. Here's what the
16 plan looked like. So you guys would be aware of what's
17 going on."

18 EXECUTIVE DIRECTOR LEARY: I appreciate that
19 perspective. And maybe it's time to reevaluate what has
20 longly been held a practice of the Board.

21 Madam chair.

22 COMMITTEE MEMBER MOULTON-PATTERSON: Thank you,
23 Mr. Washington.

24 And I certainly agree. I've been an advocate on
25 this Board that anything that goes to one Board member

1 should go to every Board member. However, at the
2 direction of the Governor's Office and Mr. Peace, we were
3 asked not to -- that this had to be confidential because
4 it probably wouldn't even be implemented. And I am an
5 appointee of the Governor's. He is my boss, and I had to
6 follow those orders.

7 But as far as anything else, Mr. Medina, Mr.
8 Washington, anything I have, my door is open. And I
9 certainly believe in that. I think that's vital to a
10 Board.

11 CHAIRPERSON WASHINGTON: Again -- and certainly,
12 I don't want to take up our time. But I think this had to
13 come out because every single day that intent of what's
14 going on here gets higher and higher. And as Budget
15 Chair, at some point we had to slow down the pace of where
16 this thing is going. And people are sitting around saying
17 what is going on and nobody is giving any direction. And
18 I'm leaving that up to you, Mr. Leary, as our Executive
19 Director to get this information.

20 Now I see where you've today at 1:30 announced
21 there would be a staff meeting. Now I don't know if
22 that's a result of me suggesting I was going to bring this
23 up today or what it was. But this should have taken place
24 a long time ago so staff can be at ease. That sounds to
25 me that might be a potential where staff won't lose their

1 jobs.

2 EXECUTIVE DIRECTOR LEARY: Absolutely.

3 CHAIRPERSON WASHINGTON: But at this point
4 they're still in a position to where they don't know.

5 EXECUTIVE DIRECTOR LEARY: And --

6 CHAIRPERSON WASHINGTON: Mr. Medina.

7 COMMITTEE MEMBER MEDINA: I want to follow up on
8 the Chair's last comments. And I'm also an appointee of
9 the Governor. And I'm also the Vice Chair of this Board.
10 And on more than one occasion, you know, the Governor's
11 Office makes direct contact with me. And if Finance
12 Director Peace sees fit to contact our Chair and not me, I
13 should be made aware of the fact that Finance Chair Peace
14 had made contact with our Chair.

15 CHAIRPERSON WASHINGTON: And certainly we won't
16 go back and forth with this.

17 I just think that when it comes to the issue, if
18 I was Madam Chair of this Board, I would have said to
19 Mr. Peace and anyone else, we have legislative appointees
20 on our Board likewise. And how do you think we should
21 proceed in terms of letting our legislative people know?
22 We're not all Governor appointees on this board.

23 And I have to go back and say to the Legislature
24 and the Speakers who appointed me, "I don't know what's
25 going on." And then they want to know why. "Why are you

1 a Board member if you don't know what's happening in the
2 agency, even if it relates to the budget?" I'm saying if
3 I was Chair and I had a Board that was made up like this,
4 I would have said to those folks, "How do I get this
5 message to all of our Board members? Can I call a closed
6 session and tell them this is the confidentiality
7 situation, but we're willing to give you the information
8 on where we're going and we'll proceed from there."
9 That's what I would have done. And then we'll move
10 forward.

11 Madam Chair.

12 COMMITTEE MEMBER MOULTON-PATTERSON: I was just
13 going to say that certainly if this becomes reality, all
14 Board members would know in closed session. But there
15 was -- the message that I got was it probably wasn't going
16 to happen and it had to be kept confidential. So I have
17 to respect that.

18 CHAIRPERSON WASHINGTON: That's exactly my point.
19 That's why the staff -- they're ballistic. They're --
20 people are calling saying, "Do I have to sell my house?"
21 That stuff really gets to my heart, man, because people
22 don't know what to do. That's exactly my point. How do
23 we stop people from going down that train? People have
24 had sleepless nights, and they might not even lose their
25 jobs.

1 EXECUTIVE DIRECTOR LEARY: Mr. Washington, we've
2 all had sleepless nights making decisions that ultimately
3 may or may not be implemented.

4 I have started -- I have started the information
5 sharing process via e-mails to the staff. On Friday I've
6 scheduled an all-staff meeting to start to discuss the
7 details of the plan and the potential of affected
8 employees. Out of sensitivity of those employees who may
9 ultimately be affected by this, we are going to attempt to
10 reach them individually in advance of Friday to have a
11 personal one-on-one conversation with these folks so --

12 CHAIRPERSON WASHINGTON: To what? Offer them
13 another position?

14 EXECUTIVE DIRECTOR LEARY: To let them know they
15 are a part of a noticed process that ultimately begins
16 with 120 days and may ultimately, God forbid, result in a
17 layoff process.

18 I really am making my best efforts to handle this
19 matter as sensitively as possible. I think we owe it to
20 our employees. If you disagree with my attempt at
21 sensitivity, I'd be happy to talk about it.

22 CHAIRPERSON WASHINGTON: I think that's where the
23 bottom line --

24 EXECUTIVE DIRECTOR LEARY: I think both of our
25 hearts are in the right place --

1 CHAIRPERSON WASHINGTON: I just think you let
2 people know so they can start making decisions for
3 themselves. To start here and go one by one and you got
4 20 employees who potentially are going to be laid off and
5 you wait until the 20th person to tell the 20th person we
6 need to talk to you, between the time you met with the
7 first one and 20, they potentially could have went out and
8 found some other employment. I mean I just -- you know --
9 okay. That's fine. All right. Let's go through the
10 agenda.

11 Mr. Medina.

12 COMMITTEE MEMBER MEDINA: I just want to touch on
13 one other item that has to do with the tire derived fuel
14 and comments made in regard to the trailer bill
15 incineration of tires.

16 I don't think any of us on the Board support the
17 burning of waste of any type. However, having visited
18 some of the cement kilns and having been familiar with
19 some of the cement kilns since I served with CalTrans -- I
20 know that during the time that I was there I tried to get
21 CalTrans to use as much rubberized asphalt as possible and
22 as much tire-derived material as possible. And even so,
23 there was still a lot of waste tires that were not used.

24 The small plant that I visited in Colton uses
25 approximately one million waste tires a year in place of

1 coal. And those are tires that otherwise would be
2 landfilled. And I know that we don't want tires to go to
3 the landfill.

4 We had lengthy discussions by stakeholders, staff
5 recommendations, the Five-Year Tire Plan Committee. And
6 we gave what I consider a modest amount in regard to
7 tire-derived fuel and energy. And having visited the
8 plant in Colton, they are permitted by the Air Quality
9 Board of Southern California, and so their air emissions
10 are monitored very carefully.

11 And to use that one industry and one area to
12 condemn the whole five-year tire plan and to really put a
13 black mark on a whole industry that was set up with help
14 from this Board many years before any of us that currently
15 sit on this Board, I think that is extremely shortsighted.
16 And I think that -- to the contrary, I think that industry
17 needs our support. And until such time as we have a use
18 for 100 percent of waste tires in this state, that should
19 be considered to be a reusable source of a resource that
20 otherwise would go into the landfill.

21 CHAIRPERSON WASHINGTON: One more thing, and this
22 is for Madam Chair.

23 I met with two members of the Conference
24 Committee on the assembly side, Republican members, who
25 brought to my attention, as relates to the laying off of

1 the advisors and the executive assistants -- that only
2 came about because they did not see the chart that shows
3 Carl Washington -- and they use me as an example -- that
4 Carl Washington had \$400,000 in his office budget. They
5 did not know I didn't have an advisor and a committee
6 analyst. But that wasn't presented to them. Whoever gave
7 this information to the conference folks, they showed that
8 I had all this money in my office. And that's how they
9 came up with eliminating these advisors and stuff because
10 somebody didn't give them the correct information.

11 DEPUTY DIRECTOR JORDAN: Mr. Chair, even though
12 the positions aren't filled, you have the structure.

13 CHAIRPERSON WASHINGTON: They don't care about
14 structure in the Legislature. They want to know am I
15 spending the money.

16 DEPUTY DIRECTOR JORDAN: That's what they asked
17 for was the structure.

18 CHAIRPERSON WASHINGTON: I just thought you
19 should know that when I talked to them.

20 COMMITTEE MEMBER MOULTON-PATTERSON: I appreciate
21 it.

22 CHAIRPERSON WASHINGTON: All right.

23 DEPUTY DIRECTOR JORDAN: Committee Item B, June
24 Item 3 -- do you want to talk about the number of these on
25 fiscal consent?

1 CHAIRPERSON WASHINGTON: I do. And Madam Chair
2 and Mr. Medina, if you guys want to -- if there's any one
3 of those fiscal consent items, if they want to, we'll move
4 them all at one time.

5 DEPUTY DIRECTOR JORDAN: I apologize I haven't
6 been able to attend most of the Committee's meetings due
7 to the budget. But it's my understanding and belief --
8 correct me if I'm wrong -- that Agenda or Committee Items
9 D, F, and M are all supposed to go to the full Board.

10 CHAIRPERSON WASHINGTON: Full Board, correct.

11 DEPUTY DIRECTOR JORDAN: And the remaining items,
12 I believe, are all on fiscal consent.

13 CHAIRPERSON WASHINGTON: That would be Items B,
14 C, E, F, G, H, I, J, and K.

15 Any questions?

16 DEPUTY DIRECTOR JORDAN: And L. There's also L.

17 CHAIRPERSON WASHINGTON: I'm sorry. I'm sorry.
18 L.

19 DEPUTY DIRECTOR JORDAN: Oh, L is full Board. F
20 is also full Board.

21 CHAIRPERSON WASHINGTON: F is?

22 DEPUTY DIRECTOR JORDAN: That's what I was told.

23 DEPUTY DIRECTOR LEE: L.

24 MR. WALKER: F.

25 CHAIRPERSON WASHINGTON: Yeah. F. Not F. L

1 is. L is full Board.

2 DEPUTY DIRECTOR JORDAN: Okay. I was advised
3 by -- actually, I was advised by --

4 CHAIRPERSON WASHINGTON: Whoever. Mr. Walker, is
5 that correct? You came up and advised her. Is that
6 correct?

7 DEPUTY DIRECTOR JORDAN: No. L is also. But I'm
8 trying to establish whether F is also.

9 CHAIRPERSON WASHINGTON: F is -- no. You're
10 right. I apologize. Thank you. The staff did come up
11 and he reminded me. This is the item where I had
12 suggested Sustainability and Marketing Committee that it
13 should go before the full Board, even though we had it on
14 fiscal -- we'll send that to the full Board.

15 DEPUTY DIRECTOR JORDAN: Okay.

16 CHAIRPERSON WASHINGTON: Thank you. So with the
17 remaining items if there's a motion.

18 COMMITTEE MEMBER MOULTON-PATTERSON: I would --
19 go ahead.

20 COMMITTEE MEMBER MEDINA: I'd like to move that
21 we adopt these various items that have been placed on
22 fiscal consent.

23 COMMITTEE MEMBER MOULTON-PATTERSON: I'll second
24 that.

25 CHAIRPERSON WASHINGTON: We have a motion and

1 second.

2 Secretary, call the roll.

3 SECRETARY GIN: Medina?

4 COMMITTEE MEMBER MEDINA: Aye.

5 SECRETARY GIN: Moulton-Patterson?

6 COMMITTEE MEMBER MOULTON-PATTERSON: Aye.

7 SECRETARY GIN: Washington.

8 CHAIRPERSON WASHINGTON: Aye.

9 With that, we have for the full Board, we have
10 Item D, F, and M. Is that correct?

11 DEPUTY DIRECTOR JORDAN: And L.

12 CHAIRPERSON WASHINGTON: And L. And L. All
13 right. I'll do it one more time just for the record. We
14 have going to the full Board are Items D, F, L, and -- I'm
15 sorry. Is that correct?

16 DEPUTY DIRECTOR JORDAN: Yes.

17 CHAIRPERSON WASHINGTON: And M. All right.

18 With that, we'll turn it over to the Chair.

19 COMMITTEE MEMBER MOULTON-PATTERSON: Oh, okay.

20 Thank you. Thank you, Mr. Washington.

21 And at this time we're informally going over our
22 agenda.

23 Mr. Leary, do you want to let us know where we
24 are on agenda items and which ones are on consent and so
25 forth?

1 EXECUTIVE DIRECTOR LEARY: I'd be happy to, Madam
2 Chairs and members of the Committee.

3 Starting with Agenda Item 1, Agenda Item 1 and 2
4 have been proposed by the respective Committee for
5 consent.

6 Agenda Item 3 is a fiscal matter and will involve
7 a short presentation, but it is a fiscal consent item.

8 Agenda Item 4 has been proposed for the consent
9 calendar.

10 Agenda Item 5 enjoys the Committee's consensus,
11 but is a fiscal matter so there will be a short
12 presentation, fiscal consent.

13 Agenda Item 6 is proposed for discussion at the
14 Board meeting.

15 Agenda Item 7 is fiscal consent.

16 Agenda Item 8 is proposed for discussion at the
17 Board meeting.

18 Agenda Item 9 is also a Board meeting item, as is
19 Agenda Item 11.

20 Agenda Item 10 has been deleted.

21 Agenda Item 12 is proposed for consent.

22 Agenda Item 13, although it enjoyed the
23 Committee's full support --

24 COMMITTEE MEMBER MOULTON-PATTERSON: Excuse me,
25 Mark. What was 11?

1 EXECUTIVE DIRECTOR LEARY: 11 is a Board item.

2 COMMITTEE MEMBER MOULTON-PATTERSON: Go on. I'm
3 sorry.

4 EXECUTIVE DIRECTOR LEARY: 13 enjoyed the support
5 of the Committee, but thought that the Board ought to hear
6 the item. So there will involve a presentation at the
7 Board Meeting.

8 The same is true for Agenda Item 14, as we talked
9 about. It was a 2-0 vote, but the Chair of the Committee
10 felt the Board ought to hear the discussion.

11 Agenda Item 15 is proposed for consent.

12 Agenda Items 16 and 17 enjoy the support of the
13 respective Committees but are fiscal items so they will
14 involve short presentations.

15 Agenda Item 18 is a Committee only. So there
16 will be no presentation at the Board.

17 Agenda Item 19 is a Board discussion.

18 Agenda Item 20 and 21 are fiscal items and enjoy
19 the support of the Committee and are proposed for fiscal
20 consent.

21 Agenda Item 22 has been deleted.

22 And actually, it's at this point after Agenda
23 Item 2 that we've noticed the first day to be completed in
24 terms of agenda management.

25 COMMITTEE MEMBER MOULTON-PATTERSON: So we're

1 having a two-day meeting, and after Item 22 --

2 EXECUTIVE DIRECTOR LEARY: We'll break right
3 prior to starting Permitting and Enforcement. And I'll
4 talk about the second day here in a moment.

5 Starting the second day -- well, the first item
6 in Permitting and Enforcement is Agenda Item 23 proposed
7 for fiscal consent.

8 Agenda Item 24 is a consent item.

9 Agenda Item 25 is, of course, the Crippin
10 discussion. That's a full Board discussion.

11 Agenda Item 26, committee only.

12 Agenda Item 27 is proposed for Board discussion.

13 Agenda Item 28 was a Committee only discussion.

14 No presentation at the Board.

15 Agenda Items 29 through 35 will all be proposed
16 for consent. 29, 30, 31, 32, 33, 34, 35 all proposed for
17 consent.

18 Agenda Items 36 through 39 all involve Board
19 presentations. They'll be presented for full Board
20 discussion.

21 Agenda Items 40 through 43 were Committee only
22 discussions, will not involve presentation at the Board.

23 Agenda Items 44, 45, and 46 are for the Board
24 discussion. And none of them have been considered by
25 Committee. So they involve full Board discussions.

1 In terms agenda management, I believe we have a
2 need for a closed session. It appears to me that would be
3 most appropriate in terms of time management on the first
4 day.

5 On the second day we are proposing to start with
6 Agenda Item 44, have that appeal hearing and then conduct
7 the rest of our business. I've had a request for a time
8 certain for the Crippin item, a request on behalf of the
9 Mayor of the City of Fresno. I'd like to propose, Madam
10 Chair, with your blessing that we notice that for 1:30 on
11 the second day, Wednesday.

12 COMMITTEE MEMBER MOULTON-PATTERSON: That would
13 be fine, unless anybody has any conflicts.

14 EXECUTIVE DIRECTOR LEARY: So I'm thinking the
15 second day we'll start with the appeal of Agenda Item 44.
16 Depending on when it concludes, we might be able to get
17 through the rest of the P&E agenda prior to 1:30 at which
18 time we would convene the Crippin item, Agenda Item 25.
19 And then after the conclusion of 25, if we still have
20 remaining items on the P&E or the rest of the agenda, we
21 could do that at the end of the day.

22 We also -- I'd like to conclude there and take
23 any questions you might have on agenda management. We
24 also have a start presentation by Wendy Breckon of the
25 legal staff about preparations for Agenda Item 44, the

1 appeal item. You'd like to take that discussion now or
2 I'll take any questions on the agenda management if you'd
3 like.

4 COMMITTEE MEMBER MOULTON-PATTERSON: Yeah. Let's
5 just go on with that presentation.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 MS. BRECKON: Good afternoon. So this is Agenda
9 Item 44, and I'm just going to talk about the procedures
10 that will occur during the Redwood Rubber audit appeal
11 hearing.

12 Basically, Michael Bledsoe will be advising the
13 Board Chair because he's had no previous involvement in
14 this matter. He'll probably be giving the oath, or he'll
15 advise you how to give the oath for the witnesses.

16 COMMITTEE MEMBER MOULTON-PATTERSON: This isn't
17 one with the judge?

18 MS. BRECKON: No. This is an informal hearing.
19 No ALJ. It doesn't have to -- well, we're following the
20 Administrative Procedure Act to the extent possible.

21 COMMITTEE MEMBER MOULTON-PATTERSON: Okay.

22 --o0o--

23 MS. BRECKON: But what I did for procedures was
24 write a letter to Mr. Faust of Redwood Rubber, and he
25 agreed -- or didn't object to the procedures that I sent

1 to him. And so as a result of that, these are the
2 procedures. And he basically impliedly agreed that the
3 Chair can limit the presentations by the parties to those
4 issues that she believes to be relevant. And the rules of
5 evidence are not strictly followed. An attorney
6 uninvolved -- I already said that Michael Bledsoe will be
7 advising you on any procedural issues that weren't -- or
8 evidentiary issues that might arise.

9 --o0o--

10 MS. BRECKON: As far as the submittal of
11 documents, during the hearing it will be up to the Chair
12 to decide whether documents are relevant and, therefore,
13 can be allowed into evidence. The order of presentation
14 is that I'll first be presenting -- well, already there is
15 a written agenda item, and I'll be presenting my witnesses
16 and giving an oral argument, and then staff will also
17 respond to questions by the Board. So as I present my
18 witnesses, you can ask questions.

19 Then after that, Mr. Faust will present his case.
20 And there's certain time limitations that he has.

21 --o0o--

22 MS. BRECKON: He has to make an oral presentation
23 within 15 minutes, and then he has 30 minutes for
24 witnesses. And aside from that, but in addition to that,
25 the Board can ask any questions that it needs to.

1 --o0o--

2 MS. BRECKON: The time limitations are there in
3 case they need to be enforced. But if they need to be
4 extended, that is up to the Chair as far as if there's
5 still additional relevant evidence that needs to be
6 submitted.

7 --o0o--

8 MS. BRECKON: Parties will not be allowed to
9 cross examine any witnesses or any other participant.
10 What that means is that I can't ask -- when Mr. Faust is
11 presenting evidence, I cannot ask him questions directly.
12 And when I have witnesses, he cannot ask my witnesses
13 questions directly.

14 CHAIRPERSON WASHINGTON: No objections, you can't
15 object?

16 MS. BRECKON: Yeah. I can object or Mr. Faust
17 can object. Mainly just based on relevance. There
18 shouldn't be really too many other reasons to object,
19 although I'll probably think of some.

20 There will be rebuttal by staff and then -- which
21 shouldn't take the entire 30 minutes. And then there will
22 be closing comments or closing argument.

23 --o0o--

24 MS. BRECKON: After the presentation also
25 Mr. Faust can present rebuttal. And after everybody's

1 done with their case, then public comments are allowed.
2 But the public comments should not be considered as
3 evidence. And the Chair can limit the number of speakers
4 of the public comments.

5 --o0o--

6 MS. BRECKON: After the presentation of the
7 public comment, the Board can deliberate in closed session
8 and then announce its decision. And then we'll have a
9 written decision within 30 days.

10 Are there any questions?

11 COMMITTEE MEMBER MOULTON-PATTERSON: Thank you.
12 And Mr. Bledsoe will be available in case I need a review.

13 MS. BRECKON: Yeah. Definitely.

14 COMMITTEE MEMBER MOULTON-PATTERSON: Any
15 questions. Okay. Any questions, Board members, about the
16 agenda or anything else?

17 CHAIRPERSON WASHINGTON: Yeah. Just one thing,
18 Madam Chair. And you or Mr. Leary can inform me if this
19 is a closed session item. As it relates to our Chief
20 Counsel position, what procedures or what process will
21 take place?

22 EXECUTIVE DIRECTOR LEARY: Closed session.

23 CHAIRPERSON WASHINGTON: Closed session. Okay.

24 COMMITTEE MEMBER MOULTON-PATTERSON: We'll do
25 that probably after lunch on the first day.

1 CHAIRPERSON WASHINGTON: Okay.

2 COMMITTEE MEMBER MOULTON-PATTERSON: Okay. Thank
3 you all very much.

4 (Thereupon the California Integrated Waste
5 Managment Board, Budget and Administration
6 Committee adjourned at 2:09 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

10 I further certify that I am not of counsel or
11 attorney for any of the parties to said hearing nor in any
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 23rd day of June, 2003.

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23 TIFFANY C. KRAFT, CSR, RPR

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